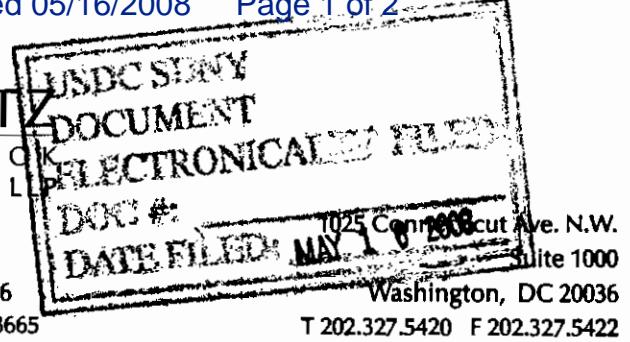


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May 13, 2008

**VIA ECF AND HAND DELIVERY**

The Honorable Laura T. Swain  
 United States District Court Judge  
 United States District Court Southern  
 District of New York  
 500 Pearl Street  
 New York, New York 10007

**MEMO ENDORSED**

Re: *In re Municipal Derivative Antitrust Litigation*, 08 Civ. 3002  
 (S.D.N.Y.)(LTS)(JCF)

Dear Judge Swain,

We represent Plaintiff Haywood County Tennessee in the above-referenced action. There are at least four similar antitrust class actions pending across the country – one matter is pending before Your Honor, two are pending in the United States District Court for the District of Columbia and one case was recently filed in the United States District Court for the Northern District of California (“related actions”). The related actions were filed after Defendant Bank of America entered into an amnesty agreement with the Department of Justice, Antitrust Division. We understand that Defendant Bank of America is now cooperating with the government and has likely produced documents and information in connection with its entry into the amnesty program. A motion to transfer and consolidate the related actions pursuant to 28 U.S.C. §1407 has been filed with The Judicial Panel on Multidistrict Litigation (“Panel”) and oral argument is now scheduled for May 29, 2008.

We write pursuant to Rules 1 and 2(A) & (B) of Your Individual Practices and Local Rule 37.2 of the Local Rules for the Southern and Eastern Districts of New York to request a conference in order to seek leave to file a motion to compel Defendants to conduct a Fed. R. Civ. P. 26(f) conference and to produce documents to us which they may have already provided to the U.S. Department of Justice, Antitrust Division (“DOJ”), the Securities and Exchange Commission (“SEC”), the Internal Revenue Service (“IRS”) or other plaintiffs’ counsel. We understand that Defendant Bank of America has entered into a cooperation agreement with Plaintiffs’ counsel in the cases

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pending in the District of Columbia and is likely providing documents and information which we believe should be produced to us as well.

In an attempt to constructively use the time during which the Panel addresses the current transfer motion and in an effort to create an organizational framework for discovery in this massive case which involves a sixteen year class period, we wrote to the Defendants to request a Fed. R. Civ. P. 26(f) conference. We informed the Defendants that we wished to discuss Fed. R. Civ. P. 26(a) disclosures, the preservation of discoverable information and the creation of a discovery plan which will address discovery of electronically stored information and the form(s) in which it will be produced in this complex and extremely large class action. *See Exhibit A.*

We also requested that Defendants advise whether they have produced documents to the DOJ, SEC, IRS or anyone else in connection with the issues raised in this matter. To the extent that documents have been gathered, bates stamped, copied and stored in boxes and/or electronic format and produced to others, we believe that there is no legitimate reason for refusing to produce those documents to us now since there is no burden in merely making copies of documents that have already been assembled and produced. Moreover, we have agreed to make documents produced to us available to all other plaintiffs' counsel in order to ease any burden on a Defendant.

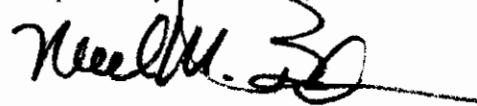
After consultation with opposing counsel, Defendants have refused to conduct a Fed. R. Civ. P. 26(f) conference now and have refused to state whether they have produced documents to the DOJ, SEC, IRS or anyone else in connection with the issues raised in this matter. Defendants contend the requested Fed. R. Civ. P. 26(f) conference is either premature or impracticable. *See Exhibit B.*

Accordingly, we write to respectfully request a conference with the Court to in order to seek leave to file a motion to compel with respect to these issues. We are available at the Court's convenience.

*The request for a conference and for permission  
 to move to compel is denied without prejudice to  
 renewal in the appropriate forum(s) after the MDL  
 panel rules on the consolidation motion.*

MMB.tao SO ORDERED. *MAB 5/16/08*

Respectfully submitted,



Michael M. Buchman

**LAURA TAYLOR SWAIN U.S.D.J.**

c: All Defense Counsel of Record in the Haywood County action